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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, Cross Heading: Scheme pensions. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 10

#### PENSION SCHEMES ETC.

##### *Scheme pensions*

- 11 (1) Paragraph 2 of Schedule 28 (scheme pensions) is amended as follows.
- (2) Omit sub-paragraph (1) (special provisions for pension scheme with fewer than 50 members).
- (3) In sub-paragraph (2) (pension scheme with 50 or more members), for “In the case of a pension scheme with 50 or more members, a” substitute “ A ”.
- (4) In sub-paragraph (3)(b) (no reduction in rate of pension)—
- (a) for “in respect of any” substitute “ at any time during any ”, and
  - (b) for “in respect of the previous 12 month period” substitute “ at the relevant time ”.
- (5) After that sub-paragraph insert—
- “(3A) “The relevant time” is—
- (a) in the case of the first relevant 12 month period, the day on which the member becomes entitled to the pension, and
  - (b) in the case of any other relevant 12 month period, immediately before the beginning of that period.”
- (6) In sub-paragraph (4) (things not preventing condition in sub-paragraph (3) being satisfied), omit “or” at the end of paragraph (b) and insert at the end—
- “(d) the reduction of the pension in consequence of a pension sharing order or provision,
- (e) forfeiture of entitlement to the pension in circumstances prescribed by regulations made by the Board of Inland Revenue,
  - (f) the reduction of the pension in consequence of an order of a court,
  - (g) if the pension is under a public service pension scheme, its reduction by abatement, or
  - (h) the reduction of the pension in any other circumstances prescribed by regulations made by the Board of Inland Revenue.”
- (7) After that sub-paragraph insert—
- “(4A) In sub-paragraph (4) references to the reduction of a pension include its ceasing to be payable (whether temporarily or permanently).”
- (8) After sub-paragraph (6) insert—
- “(6A) The Board of Inland Revenue may by regulations provide that if—

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- (a) a scheme pension payable by an insurance company selected by the scheme administrator of a registered pension scheme (“the original scheme pension”) ceases to be payable, and
- (b) in consequence of the transfer of sums or assets (or both) from the insurance company to another insurance company in connection with the original scheme pension ceasing to be payable, another scheme pension becomes payable by the other insurance company (“the new scheme pension”),

the new scheme pension is to be treated, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, as if it were the original scheme pension.”

(9) Insert at the end—

“(8) Regulations under sub-paragraph (4)(e) and (h) may include provision having effect in relation to times before they are made.”

**Commencement Information**

**II** Sch. 10 para. 11 in force at 6.4.2006, see Sch. 10 para. 64(1)

12 In Schedule 28 (authorised pensions), after paragraph 2 insert—

- “2A (1) Where this paragraph applies in relation to a pension payable to the member, the pension scheme is to be treated as making an unauthorised payment to the member of the appropriate amount.
- (2) This paragraph applies to a pension if it fails to satisfy the condition in sub-paragraph (3) of paragraph 2—
- (a) by reason of not complying with paragraph (a) of that sub-paragraph, or
  - (b) by reason of not complying with paragraph (b) of that sub-paragraph because a substantial reduction occurs in the rate of the pension,
- or if it is a pension the rate of which is reduced in accordance with paragraph (b) of sub-paragraph (4) of paragraph 2 but the reduction is part of avoidance arrangements.
- (3) For the purposes of sub-paragraph (2)(b) a substantial reduction occurs in the rate of a pension if the rate at which the pension is payable at any time during any relevant 12 month period (within the meaning of paragraph 2(7)) is less than 80% of the rate payable when the member became entitled to the pension.
- (4) For the purposes of sub-paragraph (2) “avoidance arrangements” includes schemes, arrangements and understandings of any kind (whether or not legally enforceable) the main purpose, or one of the main purposes, of which is to increase the member’s entitlement to a lump sum on which there is no liability to income tax.
- (5) “The appropriate amount”, in relation to the pension, is the amount of any lump sum on which there is no liability to tax to which the member became entitled in connection with the pension.

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- (6) Once this paragraph has applied in relation to the pension, it does not apply in relation to it again.
- (7) The application of this paragraph in relation to the pension does not prevent any payments of the pension themselves being unauthorised member payments.”

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**Commencement Information**

**I2** Sch. 10 para. 12 in force at 6.4.2006, see Sch. 10 para. 64(1)

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